



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**FILED**

02-05-07

11:13 AM

Order Instituting Rulemaking to Consider the Adoption of  
a General Order and Procedures to Implement the Digital  
Infrastructure and Video Competition Act of 2006.

Rulemaking 06-10-005  
(Filed February 5, 2007)

**COMMENTS OF THE GREENLINING INSTITUTE ON  
THE PROPOSED DRAFT DECISION**

ROBERT GNAIZDA  
THALIA GONZALEZ  
MARK RUTLEDGE

The Greenlining Institute  
1918 University Avenue, Second Floor  
Berkeley, CA 94704  
Telephone: 510 926 4006  
Facsimile: 510 926 4010  
E-mail: robertg@greenlining.org

February 5, 2007

# **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider the Adoption of  
a General Order and Procedures to Implement the Digital  
Infrastructure and Video Competition Act of 2006.

Rulemaking 06-10-005  
(Filed February 5, 2007)

## **COMMENTS OF THE GREENLINING INSTITUTE ON THE PROPOSED DRAFT DECISION**

### **INTRODUCTION**

This response to the proposed draft decision of Assigned Commissioner Chong is intended to address the apparent gap between consumer desires to protect the reputation and effectiveness of the CPUC, and the desires of the video industry to make this Commission a “rubber stamp” and thereby allow the industry to be free of any meaningful reporting mechanisms, much less effective scrutiny.

The legislative decision to reverse itself and provide reporting and scrutiny to the CPUC rather than the California Department of Corporations was a meaningful and knowing act. Greenlining Institute and Latino Issues Forum led this effort and eventually AT&T and Verizon supported it as did the video industry.

The California Department of Corporations has had a poor history and an even poorer reputation in regard to consumer protection. Most significantly, it has no built in mechanisms or infrastructure to protect underserved communities.

Virtually all of the legislators were aware that the CPUC has a good reputation among consumers and most important had demonstrated effective scrutiny of the telecommunications industry. For example, the CPUC promoted 21<sup>st</sup> century technologies while insuring that the voices and the interests of the underserved were considered and protected.

At the time that the legislature reversed itself and decided to move scrutiny and authority from the Department of Corporations to the CPUC, the cable industry, the telecommunications industry and the legislature knew that the California CPUC had an aggressive consumer protection program, including the reasonably well-funded DRA and CPSD. The legislature was also very well aware of the CPUC's effective intervenor compensation system that was consistent with state law and the California Supreme Court's decisions on fees for public interest legal work.

The legislature at the time was also well aware of this nation's most successful supplier diversity program. This California program has been in existence for almost two decades and is known as the GO-156 supplier diversity program. This program is of special benefit to minority and women owned businesses in the state with the most minority and women owned businesses in the nation, including the most Asian and Latino American owned businesses. The GO-156 reporting mechanisms are simple and are easily complied with by utilities.

Similarly, the legislature was well aware of the seminal program instituted by the CPUC to encourage, through transparency and reporting, greater diversity at all levels of management in a state with more than 22 million minorities.

In addition, the legislature was well aware of the CPUC's generally successful efforts to focus on underserved communities and eliminate the digital divide through innovative investments including strategically placed philanthropic investments. In April of last year for example, the heads of the Latino, African, and Asian American legislative caucuses held hearings on philanthropy and telecommunication and energy company's achievements were specifically discussed in the context of CPUC proceedings.

With this brief history in mind, Greenlining contends, as did its members at the Nov. 14<sup>th</sup> CPUC business meeting attended by all of the commissioners, that transparency on issues of concern to underserved communities is compatible with even minimal ministerial functions. That is, the CPUC can have a largely ministerial role and still require full and effective transparency and reporting to insure that the primary goal of the legislation, full, effective, and equal service to underserved communities, is met.

The primary argument against transparency and reporting is that the legislature in this new field of scrutiny did not specifically itemize all areas in which reporting was required. However, given the clearly spelled out legislative demand for data that demonstrates that video companies are providing equal access to underserved communities, the Commission has the authority to require additional related reporting and its impact on underserved communities.

Greenlining believes that the burden is solely on the video companies seeking to escape reporting to demonstrate that the legislature unequivocally desired to revoke the CPUC's inherent or implicit authority to gather data relating to closing the digital divide and related to corporate responsibility. This burden cannot be met given the legislature's and video industry's

knowledge of the CPUC history of effectively gathering such data in order to help close the digital divide and insure greater access to underserved communities.

It should also be noted that in California minorities are a virtual equivalent of a proxy for underserved communities since more than 90% of underserved communities are from minority families and/or new immigrant families.

A review of Greenlining's brief filed on October 25, 2006 and a review of the ensuing sections will more explicably demonstrate how this Commission, consistent with its inherent and/or implicit authority, can fulfill the legislative intent and protect the interests of underserved communities. This will ensure that the Commission avoids becoming a discredited rubber stamp for business interests. (Unfortunately, the California Department of Corporations has over the last 25 years become a discredited rubber stamp for big business interests.)

In these comments, Greenlining addresses the following topics relating to the proposed draft decision and implementation of DIVCA: In Section I, we address the collection of diversity data. Section II addresses management diversity specifically while Section III deals with philanthropy and the Digital Divide. Section IV is dedicated to the role of public protests and Section V addresses the disallowance of intervenor compensation. Section VI focuses on content and programming diversity while Section VII is our opinion on deployment and build-out. Finally, Section VIII is a request for annual hearings. For each section whose provisions require particular language for an order, proposed language is provided. Also please refer to Appendix A for all proposed language separated by corresponding section.

## **Section I: Gathering of Diversity Data**

Presently all regulated utilities file annual supplier diversity reports. This includes all the telecommunication companies, such as AT&T and Verizon. Both have acknowledged over the last few years that an effective supplier diversity program is not only an important sign of corporate responsibility but significantly enhances the economic and business climate of California. Both have also acknowledged that the supplier diversity program enhances the economic vitality and viability of underserved communities, a key element in insuring that the digital divide is closed.

Greenlining proposes that the proposed decision be slightly modified to state as follows:

“As part of the application all proposed franchisees initially either comply with the GO-156 reporting requirements or describe in detail their supplier diversity programs and results as well as when they will be able to comply with the GO-156 reporting requirements.”

It should be noted that all major telecommunication companies, such as AT&T and Verizon, can readily comply by attaching the last available year's GO-156 report. Other video franchisees such as Comcast, will have almost a year to format their data in a fashion consistent with GO-156. This is also a data format used by the majority of Fortune 500 Corporations that are part of NMDSC (National Minority Diversity Supplier Council).

The second part of the proposed slight change in language would be as follows:

“Every year subsequent to the application being filed and approved all franchisees are urged to provide similar reporting in a uniform fashion relating to GO-156 and to have their CEO or other senior official provide information to the Commission at its annual diversity and philanthropy hearings.”

## **Section II: Management Diversity**

This proposed decision appropriately recognizes the significance of management diversity in insuring that underserved communities are effectively served pursuant to legislative mandate. Unfortunately, the reporting mechanisms urged in the PD are flawed and not used by most Fortune 500 corporations to determine the effectiveness of their diversity. That is, the antiquated and generally discredited EEO-1 reporting mechanisms contain no information on Board of Directors, officers, or senior management, or even policy makers at the company. The general category of “officials and managers” represented in the EEO-1 report often include a quarter or more of all employees and in many cases employees paid less than non-exempt union laborers.

Greenlining instead suggests a reporting mechanism that is voluntarily used by all of the utilities either before the CPUC and/or to the media. Specifically, breakdowns by gender, race, and ethnicity separately stated for board of directors, for officers, and for the 100 highest paid management, etc.

Greenlining proposes the following language:

“In the application, and on an annual basis thereafter, all franchisees submit a form with a breakdown by gender, race, and ethnicity separately stated for its board of directors, for its officers, and for its top 50, top 100, and top 500 employees. This shall be accompanied by the last annual EEO-1 report.”

Every major corporation in America has this data readily available and it is estimated that it will take one hour of managerial, and less than four hours of administrative time to initially prepare such reports and essentially no time thereafter. AT&T and Verizon, already, for example have this information, as do the regulated utilities, Edison, PG&E and Sempra.

Other additional language should include the following to make clear that reporting is not the same as a goal or a quota:

“It should be noted that the request for such information in the application or on an annual basis thereafter is not intended to require a franchisee to establish a quota or specific goals and can be modified upon request should hardship or extreme difficulty in reporting be demonstrated.”

Please see attachment A which contains all the proposed language changes for this section and the ensuing sections.



### **Section III: Philanthropy and the Digital Divide**

Virtually all Fortune 500 corporations proudly report their philanthropy to their shareholders, the media, and the public. With the knowledge of the legislature and the general support of the regulated utilities, including Verizon and AT&T, philanthropy data is made available on a regular basis to the CPUC.

Philanthropy to underserved communities, particularly when strategic, long-term and leveraged can play a major role in enhancing the economic viability of underserved communities and in helping close the digital divide. See, for example, the 60 million dollar Broadband Task Force, strongly supported by Verizon and AT&T, and the Governor. A major role in establishing this was played by former CPUC Commissioner, Susan Kennedy, or has also ensured that this Broadband Task Force is adequately funded and staffed while Chief of Staff for the Governor.

Consistent with these efforts to close the digital divide and ensure equal access and service to underserved communities, Greenlining proposes that philanthropic data be provided both in the application and in annual reports thereafter. The proposed language would be as follows:

“Each application shall contain specific data on cash philanthropy made to California organizations or directly benefiting California organizations and persons. The details of such cash philanthropy shall include amounts given to non-profits serving underserved communities and/or attempting to close the digital divide or insure equal and effective video access for all Californians. This may be supplemented by additional information

describing specific programs such as a franchisee's long term strategic and leveraged plans in this area. This can also be supplemented on a voluntary basis by reporting of other philanthropy of benefit to all Californians and/or the nation."

AT&T and Verizon have all of the above information readily available and, upon information and belief, Comcast and other major video companies particularly, those among the Fortune 500 or Fortune 1,000 companies, routinely gather and provide this information.

Additional proposed language could include the following to make clear that no specific level of philanthropy is being required. The proposed language could be as follows:

"This Commission has encouraged utilities to develop long term strategic and leveraged efforts to close the digital divide and effectively serve underserved communities. This includes 2% of pre-tax income devoted to these purposes. However, the intent of the reporting is not to require any specific level of philanthropy or any specific focus of philanthropy."

As to Sections I – III on supplier diversity, management diversity, and philanthropy, the proposed decision should also make clear that data requested in the application shall be updated annually. The suggested language is as follows:

"All data requests on the initial application shall be updated on an annual basis for the next five years thereafter."

## Section IV: Protest

This proposed decision does not allow for protests. However, the legislation does not specifically address this issue, much less prohibit such. Every public agency inherently or implicitly has the right to provide for effective protests. The legislature and the video industry were well aware of the CPUC's protest mechanism when they moved scrutiny from the Department of Corporations to the CPUC.

Even if this Commission narrowly defines its role as ministerial it can permit protests by consumer groups.

Greenlining believes that the protest mechanisms presently in place at the CPUC are adequate to address the concerns of underserved communities. However, if the Commission wishes to modify protest rights or to minimize delays it can set forth specifics that minimize delay and ensure that protests are considered only when a strong *prima facie* case is made out that the application will not meet legislative intent.

Assuming this Commission is not willing to permit effective protests consistent with its past history, Greenlining proposes compromise language, which will minimize delays:

“The approval of applications shall not be delayed due to protests filed unless the protest clearly and specifically is filed by a non-profit organization with a history of protecting underserved communities and/or a local government entity and that such protests specifically set forth the grounds upon which the application is in violation of the legislative purpose and intent. To further avoid delays, the applicant shall be permitted to

file a response within 10 days and the protestor to file a reply within 5 days thereafter. The Commission shall, through an administrative law judge, assigned commissioner, and/or the entire Commission decide within 15 days thereafter whether any hearings should be held or further evidence required. In any event, a final decision shall be rendered within 120 days from the initial filing of a protest and all opposition to any protest shall be treated on an expedited priority basis.”

This will provide no hardship to AT&T or Verizon since they are well aware of this Commission’s procedures for preparing applications.

As to all other potential franchisees, none are expected to file for statewide franchises until late 2007 or early 2008. This will give them substantial time to familiarize themselves with the requirements of the decision in this case and CPUC procedures. The Commission should also note the “therapeutic” potential of permitting protests similar to the deterrent effect that regulatory scrutiny has on inappropriate corporate behavior, the potential of protests could serve a similar purpose. That is, encourage franchisees to maximize their commitments to underserved communities.

## **Section V: Intervenor Compensation**

As noted in the Introduction, Greenlining believes the legislature’s decision to reverse itself and provide reporting and scrutiny to the CPUC rather than the California Department of Corporations (“CDC”) was a meaningful and knowing act. Furthermore, it is Greenlining’s strong belief that the legislature *specifically* chose the CPUC, because it knew only the CPUC

could provide the aggressive consumer protections to all communities in California that the legislation called for.

With the legislature's implicit understanding of the nature of the CPUC, including its strong consumer protection program and effective intervenor compensation system<sup>1</sup>, Greenlining advocated for such legislation. Greenlining did not advocate for CPUC jurisdiction of cable franchises, in order to be denied participation or to discover that protests to applications would be barred. Greenlining therefore asserts that in the absence of very specific legislation to the contrary, intervenor compensation must be an important part of all these proceedings.

Greenlining believes that the CPUC's national leadership and overall effectiveness relating to telecommunications regulation is, in significant part, attributable to its intervenor compensation system. Therefore, continuance of the CPUC's intervenor compensation system, as it relates to this proceeding, is even more crucial than in any other pending CPCU proceeding since regulation of cable and video services is a new area for the CPUC. Greenlining and this Commission know it is critical (and consistent with legislative purpose) to ensure that the needs of underserved communities in California are fully protected. For example, one legislative objective clearly stated was for the CPUC to "[p]romote the widespread access to the most technologically advanced cable and video services to all California communities in a nondiscriminatory manner regardless of socioeconomic status<sup>2</sup>."

---

<sup>1</sup> The legislature has continuously over the last three decades recognized that the CPUC's intervenor compensation system is consistent with state law and the California Supreme court's Serrano v. Priest decisions on fees for public interest legal work.

<sup>2</sup> CAL. PUB. UTIL. CODE § 5810 (2)(B)

Greenlining asserts there is further justification for the significant need for intervenor compensation in the OIR, since it is unclear that the user fees including the initial fees are adequate to ensure that the CPUC is appropriately staffed. Moreover, intervenors may have to play an even larger role than they presently play in many CPUC proceedings, since the CPUC, while it has added additional staff, may not be able to effectively address all of the potential issues that may arise around cable franchising.

This Commission is cognizant that it is through the efforts of intervenors, such as Greenlining, LIF and Public Advocates, that the needs of California's 22 million minorities and underserved communities are broadly represented. Greenlining believes without an effective intervenor system in place for cable franchising, intervenors will be substantially limited in their ability to not only engage this Commission, but advocate on behalf of underserved communities in California.

In order to guarantee that the objectives of the legislation are met that call for strong consumer protections, Greenlining requests this Commission to allow the present intervenor compensation system to be applicable to proceedings related to video and cable services. If this Commission wishes to modify the intervenor compensation system consistent with its purpose to protect the needs of underserved communities in California it could state,

“It is the intention of this Commission to closely scrutinize the intervenor compensation system to ensure that there are no abuses, and limit the eligibility to groups with a history of protecting underserved communities in California.”

## Section VI: Content Diversity

A primary objective of DIVCA was an increase in content and programming diversity that will allow for California's diverse population to fully reap the benefits of video service for its entertainment, social, and community value. Indeed, the legislation states that, "Competition for video service should increase opportunities for programming that appeals to California's diverse population and many cultural communities<sup>3</sup>."

The lack of diversity within video and cable programming has recently become a topic of discussion for public advocacy groups and government agencies alike. While the FCC has recently held hearings on minority and woman representation in the media, advocacy groups such as Free Press have published reports<sup>4</sup> showing the disparity between the portion of the population that are minority or women and the portion of media ownership representative of these groups. Because media outlet ownership is inadvertently reflected in media content and images, the lack of minority and woman ownership creates an impediment to the above stated legislative objective being fulfilled, even with an increase in cable competition.

This impediment can be overcome by reporting on each video provider's own actions to increase diversity in the programming and program content in their service package. It is left to

---

<sup>3</sup> CAL. PUB. UTIL. CODE § 5810(a)(1)(D)

<sup>4</sup> The Free Press and The McGannon Communications Research Center released a report titled "Out of the Picture" ([http://www.stopbigmedia.com/files/out\\_of\\_the\\_picture.pdf](http://www.stopbigmedia.com/files/out_of_the_picture.pdf)) which points out the following statistics: Women comprise 51 percent of the entire U.S. population, but own only 4.97 percent of all TV stations; Minorities make up 33 percent of the entire U.S. population, but own only 3.26 percent of all stations; While the level of female and minority ownership has advanced in other industries since the late 1990s, it has worsened in the broadcast sector; Hispanic- or Latino-owned stations reach just 21.8 percent of the Latino TV households in the United States; 91 percent of African-American TV households are not reached by a black-owned TV station; Markets with minority owners are significantly less concentrated than markets without them — even if the size of the market is held constant.

this Commission to implement DIVCA in order for its stated objectives and the intent of the legislature to be met. In order to meet the objectives of this legislation, calling for “increase[d] opportunities for programming that appeals to California’s diverse population and many cultural communities<sup>5</sup>,” the Commission must ensure that they have data on video programming and whether or not that programming is reflective of California’s diversity, particularly the 15 million Latinos, 5 million Asian-Americans, 2.5 million African-Americans, and 500,000 Native-Americans that represent the majority of potential video and cable consumers.

Specific language to require this reporting in the application for a statewide franchise to provide video services could read as follows:

“It is the belief of the Commission that full and adequate service is not made available to consumers if the program offerings of video service is homogenous and does not offer content that can be enjoyed and utilized for information or education by all consumers, regardless of language or cultural heritage. The legislature adapted and passed DIVCA with an expressed objective to ‘increase opportunities for programming that appeals to California’s diverse population and many cultural communities’<sup>6</sup>. In order to fully meet this objective, the Commission will require of each franchise applicant a clear report of what steps they are taking to ensure that the content and programming offered through their video service is reflective of the ethnic and cultural make-up of the state of California.

“Furthermore, the Commission encourages video providers to actively work with networks and media outlets to ensure that leadership and employment within their own

---

<sup>5</sup> PUB. UTIL. CODE § 5810(a)(1)(D)

<sup>6</sup> Ibid.



ranks are also reflective of the state as a whole. This is important in ensuring that the content and programming for video subscribers is diverse from the inception at the network level all the way through to the actual delivery into the homes of consumers.”

An example of proactive steps that can be taken is TBS and their Vice President of Human Resources, Loretta Walker. Please refer to the Appendix for a brief article on how TBS works to achieve programming diversity through a holistic corporate approach.

## **Section VII: Hi-Speed Deployment of Hi-Speed Technologies**

The proposed decision correctly points out the necessity of broadband and other advanced technologies as our population moves further into the digital age. Networking (both professional and social) and rapid access to information for business and educational purposes is imperative if California is to remain competitive, domestically and globally.

To this end, Greenlining lauds this proposed decision for implementing the statutory objective to “promote the widespread access to the most technologically advanced cable and video services to all California communities in a nondiscriminatory manner regardless of socioeconomic status<sup>7</sup>” through requiring providers seeking franchises to report their build out and broadband deployment, and to meet build out requirements within a given time frame.

However, Greenlining contends that this is not enough. In addition to these reports, Greenlining believes that, in order to fully meet the objectives of the legislation, reports from video providers should also indicate deployment based on racial and ethnic make-up. Because

---

<sup>7</sup> CAL. PUB. UTIL. CODE § 5810(a)(2)(B)

socio-economic status is not determined in a vacuum, all relevant factors contributing to the socio-economic status of particular communities should be taken into consideration when determining whether or not a video provider has been successful in meeting the requirements of this legislative provision, which is to ensure the digital divide is bridged through broadband and video deployment.

Additionally, Greenlining encourages the Commission to hold workshops that allow for all interested parties to address concerns with the pace of build-out and deployment as well as the quality of services (particularly for traditionally underserved communities) for franchise holders. These workshops will also serve as the forum for discussion of the build out and deployment of new technologies that are related to the delivery of quality video and broadband service. Particularly, how access, to these new technologies, for underserved communities will be achieved. The portion of an order establishing these provisions could read as follows:

“This legislation calls for deployment of video services in a non-discriminatory manner. Digital services, broadband, and video are imperatives to being effective in business and personal interactions. Furthermore, vast educational opportunities are made available through these services, giving Californians access to the widest range of information and perspectives available. The predominant socio-economic status of a particular community or geographical area results from many different factors, not all of which can be taken into consideration with every analysis. However, race and ethnicity are very closely linked to socio-economic status; therefore, it is important to ensure that data on the racial/ethnic makeup of particular areas of build-out are made available to the Commission. This will ensure a complete and thorough acknowledgement that deployment is not discriminatory.”

“Additionally, it is believed that the understanding of the purpose of all data collected in relation to anti-discriminatory build-out is imperative for all invested parties. In order to achieve this, quarterly workshops will be held to address (a) the relevance of collected data, (b) what further steps are necessary if build-out is found to be unsatisfactory or to be exhibiting discriminatory practices, and (c) how new technologies that are developed in regards to video and broadband delivery will be made optimally and non-discriminatorily accessible. The initial workshop will take place within 15 days of the first cycle of approved franchise applications. Subsequent workshops will take place following the Commission’s receipt of quarterly reports on build-out.”

This scope of this workshop could also be expanded to acknowledge other concerns and points of contention that arise throughout the franchising and build-out process. Greenlining believes that it is of the utmost importance that the Commission have access to the most relevant information and feedback from video providers and consumer groups alike. This will ensure that any implementation has long term success and meets the stated objectives of the legislation.

### **Section VIII: Annual Hearings**

To ensure the fulfillment of legislative objectives relating to serving the underserved, annual hearings should be held. The language should be as follows:

“On an annual basis, each franchise have its CEO and/or (where necessary) a senior management official deliver both and oral and written update on its efforts relating to effectively serving underserved communities. This shall be at an en banc Commission hearing.”

Dated: February 5, 2007

Respectfully submitted,

//s//

Robert Gnaizda  
Thalia Gonzalez  
Mark Rutledge  
The Greenlining Institute

# **Appendix A**

## **(Proposed language, by section)**

## **Section I: Gathering of Diversity Data**

“As part of the application all proposed franchisees initially either comply with the GO-156 reporting requirements or describe in detail their supplier diversity programs and results as well as when they will be able to comply with the GO-156 reporting requirements.”

“Every year subsequent to the application being filed and approved all franchisees are urged to provide similar reporting in a uniform fashion relating to GO-156 and to have their CEO or other senior official provide information to the Commission at its annual diversity and philanthropy hearings.”

## **Section II: Management Diversity**

“In the application, and on an annual basis thereafter, all franchisees submit a form with a breakdown by gender, race, and ethnicity separately stated for its board of directors, for its officers, and for its top 50, top 100, and top 500 employees. This shall be accompanied by the last annual EEO-1 report.”

“It should be noted that the request for such information in the application or on an annual basis thereafter is not intended to require a franchisee to establish a quota or specific goals and can be modified upon request should hardship or extreme difficulty in reporting be demonstrated.”

## **Section III: Philanthropy and the Digital Divide**

“Each application shall contain specific data on cash philanthropy made to California organizations or directly benefiting California organizations and persons. The details of

such cash philanthropy shall include amounts given to non-profits serving underserved communities and/or attempting to close the digital divide or insure equal and effective video access for all Californians. This may be supplemented by additional information describing specific programs such as a franchisee's long term strategic and leveraged plans in this area. This can also be supplemented on a voluntary basis by reporting of other philanthropy of benefit to all Californians and/or the nation."

"This Commission has encouraged utilities to develop long term strategic and leveraged efforts to close the digital divide and effectively serve underserved communities. This includes 2% of pre-tax income devoted to these purposes. However, the intent of the reporting is not to require any specific level of philanthropy or any specific focus of philanthropy."

"All data requests on the initial application shall be updated on an annual basis for the next five years thereafter."

#### **Section IV: Protest**

"The approval of applications shall not be delayed due to protests filed unless the protest clearly and specifically is filed by a non-profit organization with a history of protecting underserved communities and/or a local government entity and that such protests specifically set forth the grounds upon which the application is in violation of the legislative purpose and intent. To further avoid delays, the applicant shall be permitted to file a response within 10 days and the protestor to file a reply within 5 days thereafter. The Commission shall, through an administrative law judge, assigned commissioner, and/or the entire Commission decide within 15 days thereafter whether any hearings

should be held or further evidence required. In any event, a final decision shall be rendered within 120 days from the initial filing of a protest and all opposition to any protest shall be treated on an expedited priority basis.”

#### **Section V: Intervenor Compensation**

“It is the intention of this Commission to closely scrutinize the intervenor compensation system to ensure that there are no abuses, and limit the eligibility to groups with a history of protecting underserved communities in California.”

#### **Section VI: Content Diversity**

“It is the belief of the Commission that full and adequate service is not made available to consumers if the program offerings of video service is homogenous and does not offer content that can be enjoyed and utilized for information or education by all consumers, regardless of language or cultural heritage. The legislature adapted and passed DIVCA with an expressed objective to ‘increase opportunities for programming that appeals to California’s diverse population and many cultural communities’<sup>8</sup>. In order to fully meet this objective, the Commission will require of each franchise applicant a clear report of what steps they are taking to ensure that the content and programming offered through their video service is reflective of the ethnic and cultural make-up of the state of California.”

“Furthermore, the Commission encourages video providers to actively work with networks and media outlets to ensure that leadership and employment within their own ranks are also reflective of the state as a whole. This is important in ensuring that the

---

<sup>8</sup> PUB. UTIL. CODE § 5810(a)(1)(D)



content and programming for video subscribers is diverse from the inception at the network level all the way through to the actual delivery into the homes of consumers.”

## **Section VII: Hi-Speed Deployment of Hi- Speed Technologies**

“This legislation calls for deployment of video services in a non-discriminatory manner. Digital services, broadband, and video are imperatives to being effective in business and personal interactions. Furthermore, vast educational opportunities are made available through these services, giving Californians access to the widest range of information and perspectives available. The predominant socio-economic status of a particular community or geographical area results from many different factors, not all of which can be taken into consideration with every analysis. However, race and ethnicity are very closely linked to socio-economic status; therefore, it is important to ensure that data on the racial/ethnic makeup of particular areas of build-out are made available to the Commission. This will ensure a complete and thorough acknowledgement that deployment is not discriminatory.”

“Additionally, it is believed that the understanding of the purpose of all data collected in relation to anti-discriminatory build-out is imperative for all invested parties. In order to achieve this, quarterly workshops will be held to address (a) the relevance of collected data, (b) what further steps are necessary if build-out is found to be unsatisfactory or to be exhibiting discriminatory practices, and (c) how new technologies that are developed in regards to video and broadband delivery will be made optimally and non-discriminatorily accessible. The initial workshop will take place within 15 days of the

first cycle of approved franchise applications. Subsequent workshops will take place following the Commission's receipt of quarterly reports on build-out."

#### **Section VIII: Annual Hearings**

"On an annual basis, each franchise have its CEO and/or (where necessary) a senior management official deliver both and oral and written update on its efforts relating to effectively serving underserved communities. This shall be at an en banc Commission hearing."

# **Appendix B**

## **(Article on TBS Diversity)**

## **Diversity In Action**

### **Turner reaches out through its programming**

*Diversity enriches program content, so the cable giant is working to increase the pool for jobs in technology, including EEs, MEs, CEs and developers*

Turner Broadcasting Systems Inc (TBS) firmly believes that a diverse workforce tends to enrich programming content. So directors of each business unit at Turner are asked to ensure that diversity is incorporated in all their operations, says Loretta Walker, senior VP of HR.

Turner doesn't need a specific diversity director, Walker notes, because the corporate culture insists that all employees keep diversity at the top of their priority lists.

"I want people to understand that our programming, our content and how we deliver it is our community outreach," she declares. "It's the work environment that we created."

For example, a VP of multicultural market development reports to the president of the entertainment division. Her role is to partner with the entertainment networks to examine how Turner markets its entertainment shows to the diverse market.



Loretta Walker: plenty of interesting opportunities for techies at Turner.

On the news side, a diversity council studies how CNN delivers the news and whether the various network anchors are representative of diverse populations and interests.

Right now TBS is focusing on significantly increasing its pool of candidates for positions in technology.

Of 8,000+ worldwide employees, 2,000 fill technical jobs, and the company needs both experienced pros and new college grads.

To recruit diverse candidates, Turner attends career fairs sponsored by SHPE, SWE, NSBE and more. It also has an ongoing relationship with North Atlanta Agricultural & Technical State University (Atlanta, GA), an HBCU.

Turner is also interested in recruiting more women, so it's established a relationship with the Georgia Institute of Technology (Atlanta, GA). Georgia Tech has a large population of women techies of its own, plus a co-op program with nearby Spellman College which brings in more diverse technical women.

Turner also works with the Walter Kaitz Foundation and the Emma Bowen Foundation, both of which focus on bringing more minorities into the cable industry.

Another Turner program is directed at diverse young techies who are recent college grads. Participants are put through nine months of on-the-job training, and although they are not guaranteed a job, many do get offers, Walker says.

There are plenty of interesting opportunities for techies at Turner. The corporation employs electrical, mechanical and civil engineers as well as developers and programmers. Most of the tech staff work in Atlanta, with some in New York, London and Hong Kong.

All standard IT business is done in-house, and a Web development group handles products delivered directly to the consumer.

CNN Pipeline is one of the news-based products, and GameTap is an entertainment-based gaming product. "Emerging platforms are a critical focus for our business," Walker says.

Turner folks also build infrastructure uplink and downlink centers, and help get signals to satellites.

There's an R&D department just three years old which is essentially an internal lab to test new technologies. The most promising are passed along to the new products group for further development, and finally rolled into the appropriate business unit. "It's a way to grow the business beyond our linear networks," Walker explains.

Turner has network affinity groups for women, African Americans, Hispanics and GLBT folks. It also offers domestic partner benefits.

There's even an industry-friendly childcare facility in Atlanta. Designed for kids from six weeks to five years old, it has the extended hours you need in the media industry, and can care for not-too-sick children. Eight weeks of maternity leave are available, as well as flexible work hours and eldercare options.

Tuition aid is available to keep techies current in their work and diversity training is offered through Turner's professional development center.

"We're facing the same challenges everybody else does, and we have all the programs that are recommended from a best-practices standpoint," Walker concludes.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider the Adoption of  
a General Order and Procedures to Implement the Digital  
Infrastructure and Video Competition Act of 2006.

Rulemaking  
(Filed February 5, 2007)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of:

**COMMENTS OF THE GREENLINING INSTITUTE ON  
THE PROPOSED DRAFT DECISION**

on all known parties to the above-captioned proceedings by mailing a properly addressed copy by first-class mail with postage prepaid, transmitting a facsimile copy, and/or transmitting an electronic copy to each party named in the official service list as maintained on the California Public Utilities Commission's web page.

Executed on February 5, 2007 at Berkeley, California.

//s//

\_\_\_\_\_  
Mark Rutledge

# SERVICE LIST

## Appearance

WILLIAM H. WEBER  
ATTORNEY AT LAW  
CBeyond COMMUNICATIONS  
320 INTERSTATE NORTH PARKWAY  
ATLANTA, GA 30339

DAVID C. RODRIGUEZ  
STRATEGIC COUNSEL  
523 WEST SIXTH STREET, SUITE 1128  
LOS ANGELES, CA 90014

ESTHER NORTHRUP  
COX CALIFORNIA TELCOM, LLC  
5159 FEDERAL BLVD.  
SAN DIEGO, CA 92105

KIMBERLY M. KIRBY  
ATTORNEY AT LAW  
MEDIASPORTSCOM P.C.  
3 PARK PLAZA, SUITE 1650  
IRVINE, CA 92614

FASSIL FENIKILE  
AT&T CALIFORNIA  
525 MARKET STREET, ROOM 1925  
SAN FRANCISCO, CA 94105

SYREETA GIBBS  
AT&T CALIFORNIA  
525 MARKET STREET, 19TH FLOOR  
SAN FRANCISCO, CA 94105

ENRIQUE GALLARDO  
LATINO ISSUES FORUM  
160 PINE STREET, SUITE 700  
SAN FRANCISCO, CA 94111

MARK P. SCHREIBER  
ATTORNEY AT LAW  
COOPER, WHITE & COOPER, LLP  
201 CALIFORNIA STREET, 17TH FLOOR  
SAN FRANCISCO, CA 94111

JOSEPH S. FABER  
ATTORNEY AT LAW  
LAW OFFICE OF JOSEPH S. FABER  
3527 MT. DIABLO BLVD., SUITE 287  
LAFAYETTE, CA 94549

DOUGLAS GARRETT  
COX COMMUNICATIONS  
2200 POWELL STREET, STE. 1035  
EMERYVILLE, CA 94608

GLENN SEMOW  
DIRECTOR STATE REGULATORY & LEGAL AFFAIR  
TELECOMMUNICATIONS  
CALIFORNIA CABLE & TELECOMMUNICATIONS  
360 22ND STREET, NO. 750  
OAKLAND, CA 94612

JEFFREY SINSHEIMER  
CALIFORNIA CABLE &  
360 22ND STREET, 750  
OAKLAND, CA 94612

LESLA LEHTONEN  
VP LEGAL & REGULATORY AFFAIRS  
CALIFORNIA CABLE TELEVISION ASSOCIATION  
ASSOCIATION  
360 22ND STREET, NO. 750  
OAKLAND, CA 94612

MARIA POLITZER  
LEGAL DEPARTMENT ASSOCIATE  
CALIFORNIA CABLE TELEVISION  
  
360 22ND STREET, NO. 750  
OAKLAND, CA 94612

MARK RUTLEDGE  
TELECOMMUNICATIONS FELLOW  
THE GREENLINING INSTITUTE  
1918 UNIVERSITY AVENUE, SECOND FLR.  
BERKELEY, CA 94704

GREG R. GIERCZAK  
EXECUTIVE DIRECTOR  
SURE WEST TELEPHONE  
PO BOX 969  
200 VERNON STREET  
ROSEVILLE, CA 95678

## Information Only

KEVIN SAVILLE  
ASSOCIATE GENERAL COUNSEL  
FRONTIER COMMUNICATIONS  
2378 WILSHIRE BLVD.  
MOUND, MN 55364

ANN JOHNSON  
VERIZON  
HQE02F61  
600 HIDDEN RIDGE  
IRVING, TX 75038

ALOA STEVENS  
DIRECTOR, GOVERNMENT&EXTERNAL AFFAIRS  
POLICY  
FRONTIER COMMUNICATIONS  
PO BOX 708970  
SANDY, UT 84070-8970

RICHARD CHABRAN  
CALIFORNIA COMMUNITY TECHNOLOGY  
  
1000 ALAMEDA STREET, SUITE 240  
LOS ANGELES, CA 90012

GREG FUENTES  
11041 SANTA MONICA BLVD., NO.629  
LOS ANGELES, CA 90025

JONATHAN L. KRAMER  
ATTORNEY AT LAW  
KRAMER TELECOM LAW FIRM  
2001 S. BARRINGTON AVE., SUITE 306  
LOS ANGELES, CA 90025

MICHAEL J. FRIEDMAN  
VICE PRESIDENT  
TELECOMMUNICATIONS MANAGEMENT CORP.  
5757 WILSHIRE BLVD., SUITE 645  
LOS ANGELES, CA 90036

BARRY FRASER  
CABLE FRANCHISE ADMINISTRATOR  
COUNTY OF SAN DIEGO  
1600 PACIFIC HIGHWAY, ROOM 208  
SAN DIEGO, CA 92101

STEVEN LASTOMIRSKY  
DEPUTY CITY ATTORNEY  
CITY OF SAN DIEGO

AARON C. HARP  
OFFICE OF THE CITY ATTORNEY  
CITY OF NEWPORT BEACH



1200 THIRD AVENUE, 11TH FLOOR  
SAN DIEGO, CA 92101

3300 NEWPORT BLVD  
NEWPORT BEACH, CA 92658-8915

BILL NUSBAUM  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102

CHRISTINE MAILLOUX  
ATTORNEY AT LAW  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102

ELAINE M. DUNCAN  
ATTORNEY AT LAW  
VERIZON  
711 VAN NESS AVENUE, SUITE 300  
SAN FRANCISCO, CA 94102

REGINA COSTA  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102

WILLIAM K. SANDERS  
DEPUTY CITY ATTORNEY  
OFFICE OF THE CITY ATTORNEY  
1 DR. CARLTON B. GOODLETT PLACE  
SAN FRANCISCO, CA 94102-4682

PETER A. CASCIATO  
A PROFESSIONAL CORPORATION  
355 BRYANT STREET, SUITE 410  
SAN FRANCISCO, CA 94107

NOEL GIELEGHEM  
COOPER, WHITE & COOPER LLP  
201 CALIFORNIA ST. 17TH FLOOR  
SAN FRANCISCO, CA 94111

JOSE E. GUZMAN, JR.  
NOSSAMAN GUTHNER KNOX & ELLIOTT LLP  
50 CALIFORNIA STREET, 34TH FLOOR  
SAN FRANCISCO, CA 94111-4799

GRANT KOLLING  
SENIOR ASSISTANT CITY ATTORNEY  
CITY OF PALO ALTO  
(CFC)  
250 HAMILTON AVENUE, 8TH FLOOR  
PALO ALTO, CA 94301

ALEXIS K. WODTKE  
ATTORNEY AT LAW  
CONSUMER FEDERATION OF CALIFORNIA  
  
520 S. EL CAMINO REAL, STE. 340  
SAN MATEO, CA 94402

MARK T. BOEHME  
ASSISTANT CITY ATTORNEY  
CITY OF CONCORD  
1950 PARKSIDE DRIVE  
CONCORD, CA 94510

PETER DRAGOVICH  
ASSISTANT TO THE CITY MANAGER  
CITY OF CONCORD  
1950 PARKSIDE DRIVE, MS 01/A  
CONCORD, CA 94519

CHRIS VAETH  
ATTORNEY AT LAW  
THE GREENLINING INSTITUTE

ROBERT GNAIZDA  
POLICY DIRECTOR/GENERAL COUNSEL  
THE GREENLINING INSTITUTE

1918 UNIVERSITY AVE., 2ND FLOOR  
FLOOR  
BERKELEY, CA 94704

1918 UNIVERSITY AVENUE, SECOND  
BERKELEY, CA 94704

BARRY F. MCCARTHY, ESQ.  
ATTORNEY AT LAW  
AFFAIRS  
MCCARTHY & BARRY LLP  
CALIFORNIA  
100 PARK CENTER PLAZA, SUITE 501  
SAN JOSE, CA 95113

CHARLES BORN  
MANAGER, GOVERNMENT & EXTERNAL  
FRONTIER COMMUNICATIONS OF  
9260 E. STOCKTON BLVD.  
ELK GROVE, CA 95624

JOE CHICOINE  
MANAGER, STATE GOVERNMENT AFFAIRS  
FRONTIER COMMUNICATIONS  
PO BOX 340  
ELK GROVE, CA 95759

SUE BUSKE  
THE BUSKE GROUP  
3001 J STREET, SUITE 201  
SACRAMENTO, CA 95816

## State Service

ANNE NEVILLE  
CALIF PUBLIC UTILITIES COMMISSION  
CARRIER BRANCH  
ISSUES BRA  
AREA 3-E  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JOSEPH WANZALA  
CALIF PUBLIC UTILITIES COMMISSION  
TELECOMMUNICATIONS & CONSUMER  
ROOM 4101  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MICHAEL OCHOA  
CALIF PUBLIC UTILITIES COMMISSION  
TELECOMMUNICATIONS & CONSUMER ISSUES BRA  
ISSUES BRA  
ROOM 4102  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

ROBERT LEHMAN  
CALIF PUBLIC UTILITIES COMMISSION  
TELECOMMUNICATIONS & CONSUMER  
ROOM 4102  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

SINDY J. YUN  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 4300  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

TIMOTHY J. SULLIVAN  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION  
ROOM 5204  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

WILLIAM JOHNSTON  
CALIF PUBLIC UTILITIES COMMISSION  
TELECOMMUNICATIONS & CONSUMER ISSUES BRA

DELANEY HUNTER  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION

ROOM 4101  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

770 L STREET, SUITE 1050  
SACRAMENTO, CA 95814